

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**JAMES McCONICO, JR.,**

**Petitioner,**

**vs.**

**GRANTT CULLIVER,**

**Respondent.**

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**: CIVIL ACTION 09-0322-CG-M**

**ORDER**

This matter is before the court on the Report and Recommendation (Doc. 47) of the Magistrate Judge to deny the motion for certificate of appealability (Doc. 42) and motion for leave to appeal in forma pauperis (Doc. 46) filed by the petitioner. After reviewing the record in this case and the report and recommendation of the Magistrate Judge, the court hereby **ADOPTS** the Report and Recommendation as the opinion of this court.

Accordingly, the Motion for Certificate of Appealability (Doc. 42) and the Motion for Leave to Appeal In Forma Pauperis (Doc. 46) are **DENIED**. In addition, petitioner's Motion to Appoint Counsel (Doc. 43) is also **DENIED**.

**DONE and ORDERED** this 1<sup>st</sup> day of April, 2010.

/s/ Callie V. S. Granade  
UNITED STATES DISTRICT JUDGE